

amount by applying the benefit formula to your average indexed monthly earnings and adding the results for each step of the formula. For computations using the benefit formulas in effect for 1979 through 1982, we round the total amount to the next higher multiple of \$0.10 if it is not a multiple of \$0.10 and for computations using the benefit formulas effective for 1983 and later years, we round to the next lower multiple of \$0.10. (See paragraph (e) of this section for a discussion of the minimum primary insurance amount.)

(d) *Adjustment of your primary insurance amount when entitlement to benefits occurs in a year after attainment of age 62, disability or death.* If you (or your survivors) do not become entitled to benefits in the same year you reach age 62, become disabled, or die before age 62, we compute your primary insurance amount by—

(1) Computing your average indexed monthly earnings as described in § 404.211;

(2) Applying to your average indexed monthly earnings the benefit formula for the year in which you reach age 62, or become disabled or die before age 62; and

(3) Applying to the primary insurance amount all automatic cost-of-living and *ad hoc* increases in primary insurance amounts that have gone into effect in or after the year you reached age 62, became disabled, or died before age 62. (See § 404.277 for special rules on minimum benefits, and appendix VI for a table of percentage increases in primary insurance amounts since December 1978. Increases in primary insurance amounts are published in the FEDERAL REGISTER and we periodically update appendix VI.)

(e) *Minimum primary insurance amount.* If you were eligible for benefits, or died without having been eligible, before 1982, your primary insurance amount computed under this method cannot be less than \$122. This minimum benefit provision has been repealed effective with January 1982 for most workers and their families where the worker initially becomes eligible for benefits in that or a later month, or dies in January 1982 or a later month without having been eligible before January 1982. For members of a reli-

gious order who are required to take a vow of poverty, as explained in 20 CFR 404.1024, and which religious order elected Social Security coverage before December 29, 1981, the repeal is effective with January 1992 based on first eligibility or death in that month or later.

[47 FR 30734, July 15, 1982, as amended at 48 FR 46142, Oct. 11, 1983; 51 FR 4482, Feb. 5, 1986; 52 FR 47916, Dec. 17, 1987]

§ 404.213 Computation where you are eligible for a pension based on your noncovered employment.

(a) *When applicable.* Except as provided in paragraph (d) of this section, we will modify the formula prescribed in § 404.212 and in appendix II of this subpart in the following situations:

(1) You become eligible for old-age insurance benefits after 1985; or

(2) You become eligible for disability insurance benefits after 1985; and

(3) For the same months after 1985 that you are entitled to old-age or disability benefits, you are also entitled to a monthly pension(s) for which you first became eligible after 1985 based in whole or part on your earnings in employment which was not covered under Social Security. We consider you to first become eligible for a monthly pension in the first month for which you met all requirements for the pension except that you were working or had not yet applied. In determining whether you are eligible for a pension before 1986, we consider all applicable service used by the pension-paying agency. (Noncovered employment includes employment outside the United States which is not covered under the United States Social Security system. Pensions from noncovered employment outside the United States include both pensions from social insurance systems that base benefits on earnings but not on residence or citizenship, and those from private employers. However, for benefits payable for months prior to January 1995, we will not modify the computation of a totalization benefit (see §§ 404.1908 and 404.1918) as a result of your entitlement to another pension

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based on employment covered by a totalization agreement. Beginning January 1995, we will not modify the computation of a totalization benefit in any case (see § 404.213(e)(8)).

(b) *Amount of your monthly pension that we use.* For purposes of computing your primary insurance amount, we consider the amount of your monthly pension(s) (or the amount prorated on a monthly basis) which is attributable to your noncovered work after 1956 that you are entitled to for the first month in which you are concurrently entitled to Social Security benefits. For applications filed before December 1988, we will use the month of earliest concurrent eligibility. In determining the amount of your monthly pension we will use, we will consider the following:

(1) If your pension is not paid on a monthly basis or is paid in a lump-sum, we will allocate it proportionately as if it were paid monthly. We will allocate this the same way we allocate lump-sum payments for a spouse or surviving spouse whose benefits are reduced because of entitlement to a Government pension. (See § 404.408a.)

(2) If your monthly pension is reduced to provide a survivor's benefit, we will use the unreduced amount.

(3) If the monthly pension amount which we will use in computing your primary insurance amount is not a multiple of \$0.10, we will round it to the next lower multiple of \$0.10.

(c) *How we compute your primary insurance amount.* When you become entitled to old-age or disability insurance benefits and to a monthly pension, we will compute your primary insurance amount under the average-indexed-monthly-earnings method (§ 404.212) as modified by paragraph (c) (1) and (2) of this section. Where applicable, we will also consider the 1977 simplified old-start method (§ 404.241) as modified by § 404.243 and a special minimum primary insurance amount as explained in §§ 404.260 and 404.261. We will use the highest result from these three methods as your primary insurance amount. We compute under the average-indexed-monthly-earnings method, and use the higher primary insurance amount resulting from the application

of paragraphs (c) (1) and (2) of this section, as follows:

(1) The formula in appendix II, except that instead of the first percentage figure (*i.e.*, 90 percent), we use—

(i) 80 percent if you initially become eligible for old-age or disability insurance benefits in 1986;

(ii) 70 percent for initial eligibility in 1987;

(iii) 60 percent for initial eligibility in 1988;

(iv) 50 percent for initial eligibility in 1989;

(v) 40 percent for initial eligibility in 1990 and later years, or

(2) The formula in appendix II minus one-half the portion of your monthly pension which is due to noncovered work after 1956 and for which you were entitled in the first month you were entitled to both Social Security benefits and the monthly pension. If the monthly pension amount is not a multiple of \$0.10, we will round to the next lower multiple of \$0.10. To determine the portion of your pension which is due to noncovered work after 1956, we consider the total number of years of work used to compute your pension and the percentage of those years which are after 1956, and in which your employment was not covered. We take that percentage of your total pension as the amount which is due to your noncovered work after 1956.

(d) *Alternate computation.* (1) If you have more than 20 but less than 30 years of coverage as defined in the column headed "Alternate Computation Under § 404.213(d)" in appendix IV of this subpart, we will compute your primary insurance amount using the applicable percentage given below instead of the first percentage in appendix II of this subpart if the applicable percentage below is larger than the percentage specified in paragraph (c) of this section:

(i) For benefits payable for months before January 1989—

Years of coverage	Percent
29	80
28	70
27	60
26	50

(ii) For benefits payable for months after December 1988—

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Years of coverage	Percent
29	85
28	80
27	75
26	70
25	65
24	60
23	55
22	50
21	45

(2) If you later earn additional year(s) of coverage, we will recompute your primary insurance amount, effective with January of the following year.

(e) *Exceptions.* The computations in paragraph (c) of this section do not apply in the following situations:

(1) Payments made under the Railroad Retirement Act are not considered to be a pension from noncovered employment for the purposes of this section. See subpart O of this part for a discussion of railroad retirement benefits.

(2) You were entitled before 1986 to disability insurance benefits in any of the 12 months before you reach age 62 or again become disabled. (See § 404.251 for the appropriate computation.)

(3) You were a Federal employee performing service on January 1, 1984 to which Social Security coverage was extended on that date solely by reason of the amendments made by section 101 of the Social Security Amendments of 1983.

(4) You were an employee of a non-profit organization who was exempt from Social Security coverage on December 31, 1983 unless you were previously covered under a waiver certificate which was terminated prior to that date.

(5) You have 30 years of coverage as defined in the column headed "Alternate Computation Under § 404.213(d)" in appendix IV of this subpart.

(6) Your survivors are entitled to benefits on your record of earnings. (After your death, we will recompute the primary insurance amount to nullify the effect of any monthly pension, based in whole or in part on non-covered employment, to which you had been entitled.)

(7) For benefits payable for months after December 1994, payments by the social security system of a foreign country which are based on a total-

ization agreement between the United States and that country are not considered to be a pension from noncovered employment for purposes of this section. See subpart T of this part for a discussion of totalization agreements.

(8) For benefits payable for months after December 1994, the computations in paragraph (c) do not apply in the case of an individual whose entitlement to U.S. social security benefits results from a totalization agreement between the United States and a foreign country.

(9) For benefits payable for months after December 1994, you are eligible after 1985 for monthly periodic benefits based wholly on service as a member of a uniformed service, including inactive duty training.

(f) *Entitlement to a totalization benefit and a pension based on noncovered employment.* If, before January 1995, you are entitled to a totalization benefit and to a pension based on noncovered employment that is not covered by a totalization agreement, we count your coverage from a foreign country with which the United States (U.S.) has a totalization agreement and your U.S. coverage to determine if you meet the requirements for the modified computation in paragraph (d) of this section or the exception in paragraph (e)(5) of this section.

(1) Where the amount of your totalization benefit will be determined using a computation method that does not consider foreign earnings (see § 404.1918), we will find your total years of coverage by adding your—

(i) Years of coverage from the agreement country (quarters of coverage credited under § 404.1908 divided by four) and

(ii) Years of U.S. coverage as defined for the purpose of computing the special minimum primary insurance amount under § 404.261.

(2) Where the amount of your totalization benefit will be determined using a computation method that does consider foreign earnings, we will credit your foreign earnings to your U.S. earnings record and then find your

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total years of coverage using the method described in § 404.261.

[52 FR 47916, Dec. 17, 1987, as amended at 55 FR 21382, May 24, 1990; 57 FR 22429, May 28, 1992; 60 FR 17444, Apr. 6, 1995; 60 FR 56513, Nov. 9, 1995]

AVERAGE-MONTHLY-WAGE METHOD OF COMPUTING PRIMARY INSURANCE AMOUNTS

§ 404.220 Average-monthly-wage method.

(a) *Who is eligible for this method.* You must before 1979, reach age 62, become disabled or die to be eligible for us to compute your primary insurance amount under the average-monthly-wage method. Also, as explained in § 404.230, if you reach age 62 after 1978 but before 1984, you are eligible to have your primary insurance amount computed under a modified average-monthly-wage method if it is to your advantage. Being eligible for either the average-monthly-wage method or the modified average-monthly-wage method does not preclude your eligibility under the *old-start* method described in §§ 404.240 through 404.242.

(b) *Steps in computing your primary insurance amount under the average-monthly-wage method.* We follow these three major steps in computing your primary insurance amount under the average-monthly-wage method:

(1) First, we find your average monthly wage, as described in § 404.221;

(2) Second, we look at the *benefit table* in appendix III; and

(3) Then we find your primary insurance amount in the benefit table, as described in § 404.222.

(4) Finally, we apply any automatic cost-of-living or *ad hoc* increases that became effective in or after the year you reached age 62, or became disabled, or died before age 62, as explained in §§ 404.270 through 404.277.

§ 404.221 Computing your average monthly wage.

(a) *General.* Under the average-monthly-wage method, your social security earnings are averaged over the length of time you can reasonably have been expected to have worked under social security after 1950 (or after you reached age 21, if later).

(b) *Which of your earnings may be used in computing your average monthly wage.*

(1) In computing your average monthly wage, we consider all the wages, compensation, self-employment income, and deemed military wage credits that are creditable to you for social security purposes. (The maximum amounts creditable are explained in §§ 404.1047 and 404.1096 of this part.)

(2) We use your earnings in your *computation base years* in computing your average monthly wage. All years after 1950 up to (but not including) the year you become entitled to old-age or disability insurance benefits, or through the year you die if you had not been entitled to old-age or disability benefits, are computation base years for you. Years after the year you die may not be used as computation base years even if you have earnings credited to you in them. However, years beginning with the year you become entitled to benefits may be used for benefits beginning with the following year if using them would give you a higher primary insurance amount. Years wholly within a period of disability are not computation base years unless your primary insurance amount would be higher if they were. In such situations, we count all the years during the period of disability, even if you had no earnings in some of them.

(c) *Number of years to be considered in computing your average monthly wage.* To find the number of years to be used in computing your average monthly wage—

(1) We count the years beginning with 1951 or (if later) the year you reached age 22 and ending with the year before you reached age 62, or became disabled, or died before age 62. Any part of a year—or years—in which you were disabled, as defined in § 404.1505, is not counted unless doing so would give you a higher average monthly wage. In that case, we count all the years during the period of disability, even if you had no earnings in some of those years. These are your *elapsed years*. (If you are a male and you reached age 62 before 1975, see paragraph (c)(2) of this section for the rules on finding your elapsed years.)

(2) If you are a male and you reached age 62 in—